NOTE

This Microfiche meets the quality requirements of the American National Standard for Microfiche of Documents (ANSI PH5.9-1975). However, because of imperfections in the document from which it was made, it contains images that are illegible or difficult to read. The source document for this microfiche is the best copy that could be obtained prior to filming.

CIS Congressional Information Service, Washington, D.C.

S. HRG. 101-573

NOMINATION—FCC

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

ON

NOMINATIONS

FEBRUARY 7, 1990

ERVIN S. DUGGAN, TO BE A COMMISSIONER, FEDERAL COMMUNICATIONS COMMISSION

Printed for the use of the
Committee on Commerce, Science, and Transportation

U.S. GOVERNMENT PRINTING OFFICE

27-887 O WASHINGTON : 1990

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

S261-42

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ERNEST F. HOLLINGS, South Carolina, *Chairman*

DANIEL K. INOUYE, Hawaii	JOHN C. DANFORTH, Missouri
WENDELL H. FORD, Kentucky	BOB PACKWOOD, Oregon
J. JAMES EXON, Nebraska	LARRY PRESSLER, South Dakota
ALBERT GORE, JR., Tennessee	TED STEVENS, Alaska
JOHN D. ROCKEFELLER IV, West Virginia	ROBERT W. KASTEN, JR., Wisconsin
LLOYD BENTSEN, Texas	JOHN MCCAIN, Arizona
JOHN F. KERRY, Massachusetts	CONRAD BURNS, Montana
JOHN B. BREAUX, Louisiana	SLADE GORTON, Washington
RICHARD H. BRYAN, Nevada	TRENT LOTT, Mississippi
CHARLES S. ROBB, Virginia	

KEVIN G. CURTIN, *Chief Counsel and Staff Director*
WALTER B. MCCORMICK, JR., *Minority Chief Counsel and Staff Director*

CONTENTS

	Page
Opening statement by Senator Inouye	1
Opening statement by the Chairman	1

LIST OF WITNESSES

Duggan, Ervin S	14
Biographical sketch	5
Prehearing questions of the majority and the answers	8
Thurmond, Hon. Strom, U.S. Senator from South Carolina, statement	3
Fowler, Hon. Wyche, Jr., U.S. Senator from Georgia, statement	3
Bentsen, Hon. Lloyd, U.S. Senator from Texas, statement	4
Posthearing questions of Senator Pressler and the answers	22
Posthearing questions of Senator Gorton and the answers	23

NOMINATION—FCC

WEDNESDAY, FEBRUARY 7, 1990

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,

Washington, DC.

The committee met, pursuant to notice, at 9:05 a.m. in room SR-253, Russell Senate Office Building, Hon. Daniel Inouye presiding.

Staff members assigned to this hearing: Toni Cook and Tom Cohen, staff counsels; Becky Kojm, professional staff member; and Ruth Johnson, minority professional staff member.

OPENING STATEMENT BY SENATOR INOUYE

Senator INOUYE. This morning we gather to consider the nomination of Mr. Ervin S. Duggan to serve as a member of the Federal Communications Commission. Mr. Duggan will be filling a seat on the Commission last held by Patricia Dennis.

As we all know, the FCC has broad authority overseeing most aspects of domestic and foreign communications. In the coming years it will be no small task for the FCC to ensure that the American communications industry continues to thrive and expand in an increasingly competitive international market and that the American public benefits from this growth. As a member of the FCC, Mr. Duggan will be faced with important decisions which will have long-term effects on the communications marketplace.

Our nominee has his own public relations firm in this city which he started in 1981. Prior to that he was the national editor of the "Washingtonian Magazine." His government service includes the policy planning staff of the U.S. Department of State from 1979 to 1981; Special Assistant to the U.S. Department of Health, Education and Welfare from 1977 to 1979; Special Assistant to Senator Adlai Stevenson from 1971 to 1977; and an assistant to the President of the United States from 1965 to 1969. He received his bachelor's degree from Davidson College in 1961.

I welcome you, Mr. Duggan. Before I call upon you, however, I am most pleased to call upon my distinguished Chairman, Senator Hollings.

OPENING STATEMENT BY THE CHAIRMAN

The CHAIRMAN. Thank you, Mr. Chairman. The State of South Carolina is obviously proud this morning to present one of its most successful citizens, raised in Manning, South Carolina and, as you indicated, graduated from Davidson right at the top of the class in

spite of the fact that he roomed with our distinguished colleague, Senator Fowler. Can you imagine going through college with Fowler?

Senator INOUYE. There is a negative aspect to this.

The CHAIRMAN. They are both honor graduates of that distinguished liberal arts college at Davidson.

As you have indicated, he went in the Army at Fort Jackson and served with distinction there and at the Washington Post.

He worked with our colleagues, George Reedy, Joe Califano, and Harry Stevenson at the White House. He was part of that team as an assistant to Lyndon Johnson in the White House.

From the White House, he went on to the Smithsonian Institution as Director of the Special Projects in History and Art.

He then served as special assistant to our colleague, Adlai Stevenson, who served on this committee with distinction.

Ervin moved over to serve as a Special Assistant to the Secretary of then Health, Education and Welfare from 1977 to 1979.

He then was a member of the policy planning staff from 1979 to 1981 at the Department of State and later was the National Editor of the "Washingtonian Magazine" for several years, from 1981 to 1986.

Now he has his own public relations firm. He is considered one of the brightest minds by all in Washington. I wish I had him as a speech writer. I think I could have gotten elected if perhaps I had had him when I was in the 1984 campaign. Everywhere I looked for someone, they always referred to Ervin Duggan. They pointed out that he is right from South Carolina, right from your own backyard.

I am confident that he will provide balance to the Federal Communications Commission. There has been a virtual standoff between the Congress and the FCC over the past several years with the FCC willy nilly abolishing its role as the administrator of the communications policy of the National Congress. The FCC seemed to want to get rid of itself, to get rid of communications policy, abolish the fairness doctrine, antitrafficking rules and all the other public interest obligations imposed on our communications industry.

So with Mr. Duggan's appointment and confirmation, I am confident that we can move now to work again with the FCC as we have in this Committee worked over the many years since I have been on it. I look forward to the FCC promulgating a rational policy that will repair some of the damage done and move forward to meet the challenges of the diversification that we have all yearned for.

It is my privilege to present Mr. Duggan to the Committee. I think Alexander Pope had a saying for this, Senator Fowler, "The politician give[s] his little senate laws and sits attentive to his own applause." I urge the committee's confirmation of Ervin Duggan.

I will now come up there and help confirm him.

Senator INOUYE. Now I am very pleased and honored to call upon the senior Senator from South Carolina and the senior Member of the United States Senate, Senator Thurmond.

STATEMENT OF HON. STROM THURMOND, U.S. SENATOR FROM SOUTH CAROLINA

Senator THURMOND. Thank you very much, Mr. Chairman and members of the committee. It is a great pleasure for me to introduce to this committee Mr. Ervin S. Duggan who has been nominated by President Bush to serve as a member of the Federal Communications Commission. I am happy to speak on behalf of Mr. Duggan, who grew up in Manning, South Carolina.

Mr. Duggan, who was chosen to fill the Democratic vacancy on the FCC, has a wealth of experience both in government and in the private sector as a journalist and as a consultant. Mr. Duggan was a speech writer for President Johnson and assistant to Senators Adlai Stevenson and Lloyd Bentsen and to Joseph Califano, the former Secretary of Health, Education and Welfare.

Mr. Duggan was also a member of the State Department policy planning staff.

In the journalistic arena, Mr. Duggan was a reporter for the Washington Post in 1964 and subsequently served as national editor of the "Washingtonian Magazine."

As a consultant, his expertise lies in providing communications advice to corporate leaders.

Finally, he is a co-author of "Against All Enemies."

Mr. Duggan is a member and elder of the Chevy Chase Presbyterian Church and executive board member of the Presbyterians for Democracy and Religious Freedom.

Mr. Duggan was born in Atlanta and grew up in Georgia and South Carolina. After his graduation from Davidson College, one of the finest colleges in the south, very high in scholarship, he served as an officer in the United States Army. He holds the Army commendation medal for exceptional and meritorious service.

In closing, Mr. Chairman, let me say that Mr. Duggan is a well-rounded individual with a long history of outstanding public service. He will be an excellent addition to the FCC. I urge my colleagues on the committee to vote in favor of his nomination. I think he will serve well in this capacity.

Thank you very much.

Senator INOUYE. Thank you very much, sir.

Now we have heard from the senior leaders of the United States Senate. We would like to hear from the most promising young leader of the United States Senate, Senator Wyche Fowler.

STATEMENT OF HON. WYCHE FOWLER, JR., U.S. SENATOR FROM GEORGIA

Senator FOWLER. You are very kind, Mr. Chairman. I am certainly the most junior.

To both my Chairman and my colleagues, I thank you for this opportunity. It is with great pride that I join you and Senators Thurmond, Hollings, Bentsen, and others who have known and worked with Ervin Duggan over the years to recommend him very highly for this confirmation. I have known Mr. Duggan for 30 years.

I guess in the interest of public disclosure I ought to correct the record for the Senator from South Carolina, Mr. Hollings. Neither Mr. Duggan nor I were honor graduates at Davidson College.

In my case, it was nothing but sorriness. In his case, Mr. Duggan, as the record will show, has too fine and creative a mind to accept the strictures of chemistry formulas and advanced calculus. His creativity was shown in his journalistic expertise, his editing of the school newspaper, his pushing against the formulas of education. He was an example to us all at an early age of how a curious, inquiring mind can lead the way to true education in a town where résumés are laden and sometimes concocted.

I do want to say about Mr. Duggan that he does have an exemplary mind. The FCC, though I am not an expert and have no committees of jurisdiction, does regulate an industry from which the majority of our countrymen get their news, get their information, and all too often get their cultural identity. I can think of no place where we need the finest men and women to oversee that industry and help assure us that the highest standards of broadcast and excellence are portrayed in a country where it is the molder of so much of our mores and our education.

I also think I ought to say that in a time where public service is too often used as an excuse for commercial exploitation, of all things that I can say about Ervin Duggan you can be assured that he will put the public's interest above all else in fulfilling this high charge and mandate if confirmed by the Senate.

He is a good man with an extremely creative mind. He is backed up by a wonderful family and is the kind of citizen solider that we all too rarely are able to entice into full-time public service. He will do our country great honor.

Thank you very much.

Senator INOUYE. We should take a vote at this point.

I am now pleased to call upon my distinguished colleague from Texas, Senator Bentsen.

STATEMENT OF HON. LLOYD BENTSEN, U.S. SENATOR FROM TEXAS

Senator BENTSEN. Thank you very much, Mr. Chairman. I am delighted to be here with my friend, Erv Duggan.

As I walked in and saw that battery of power surrounding you, I thought you did not need much help, Erv.

I have known him for a long time to be a very able, capable person, a man of intelligence and integrity.

We have some tough issues facing us, among which are things like MFJ and financial interest, syndication rules, cable TV. I would suggest that you listen to some of the counsel that you get from this committee which has that responsibility, not that you return just my calls but certainly those of the Chairman.

I know that you are a Presbyterian. I had almost forgotten that, but then I remembered Mark Twain's experience when he went to Virginia City, which was one of the rowdiest cities in the 1850s in Nevada. He said it was "no place for a Presbyterian, and I did not long remain one."

You hang in there, Mr. Duggan. I think you will get along with Congress just fine. I congratulate the President on his choice, and you will get the support of the Chairman and the Members of this committee.

Thank you.

Senator INOUYE. Usually we have one Senator introducing a nominee. This is a record now. We have four.

[The biographical sketch and prehearing questions and answers follow:]

ERNEST F. HOLLINGS, SOUTH CAROLINA, CHAIRMAN

DANIEL K. INOUYE, HAWAII
WENDELL H. FORD, KENTUCKY
J. JAMES EXON, NEBRASKA
ALBERT GORE, JR., TENNESSEE
JOHN D. ROCKEFELLER IV, WEST VIRGINIA
LLOYD BENTSEN, TEXAS
JOHN F. KERRY, MASSACHUSETTS
JOHN B. BREAUX, LOUISIANA
RICHARD H. BRYAN, NEVADA
CHARLES S. ROBB, VIRGINIA

JOHN C. DANFORTH, MISSOURI
BOB PACKWOOD, OREGON
LARRY PRESSLER, SOUTH DAKOTA
TED STEVENS, ALASKA
ROBERT W. KASTEN, JR., WISCONSIN
JOHN McCAIN, ARIZONA
CONRAD BURNS, MONTANA
SLADE GORTON, WASHINGTON
TRENT LOTT, MISSISSIPPI

KEVIN G. CURTIN, CHIEF COUNSEL AND STAFF DIRECTOR
WALTER B. McCORMICK, JR., MINORITY CHIEF COUNSEL AND STAFF DIRECTOR

United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

(If more space is needed, please use attached REMARKS sheet)

A. BIOGRAPHICAL DATA

1. Name: Duggan (Last) Ervin (First) Stanley (Other)

Address: 6113 Cromwell Drive (Current residence) 4545 42nd Street, N.W., #109 (Business)

Bethesda, MD 20816 Washington, D.C. 20016

2. Position to which nominated: Commissioner, FCC Date of nomination: January 23, 1990

3. Date of birth: 30 (month) June (day) 1939 (year) Place of birth: Atlanta, Georgia

4. Marital status: Married Full name of Spouse: Julia Prather Duggan

5. Names and ages of children: Edward Ervin Duggan II born June 25, 1975

Laurens Paul Duggan born February 20, 1980

6. Education:

Institution	Dates attended	Degrees received	Dates of degrees
Davidson College (NC)	1957-1961	B.A.	1961

7. Employment record: List all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

From To Name of employer Address Type of work

See attached list

Sheet 2A

8. Government experience: List any experience in or direct association with Federal, State, or local governments, including any advisory, consultative, honorary or other part-time service or positions.

In addition to the government posts listed on the attached list, I have had brief consulting relationships with several Members of Congress, including Senator Bentsen, Senator Fowler and former Representative James R. Jones.

9. Political affiliations activities: List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last 10 years.

Registered Democrat (Montgomery County, Maryland)

Small contributions ($100 or less) to the campaigns of Charles S. Robb for Governor and Lieutenant Governor of Virginia (dates unknown).

2A

1962-1964	United States Army	Ft. Jackson, S.C.	Army Officer
1964-1965	The Washington Post	Washington, D.C.	Staff Writer
1965-1969	The White House	Washington, D.C.	Staff Asst. to the President
1969-1970	Smithsonian Institution	Wash, D.C.	Director Special Projects History & Art
1971-1977	U.S. Senate	Washington, D.C.	Sp. Asst. to Sen. Stevenson III
1977-1979	Department of HEW	Washington, D.C.	Sp. Asst. to The Secretary
1979-1981	Department of State	Washington, D.C.	Member, Policy Planning Staff
1981-1986	Washingtonian Magazine	Wash, D.C.	National Editor
1981-Present	Ervin S. Duggan Associates Washington, D.C.		Proprietor

10 Memberships List all memberships and offices held in professional, fraternal, scholarly, civic, charitable and other organizations.

Chevy Chase Presbyterian Church (Washington) Member & Elder

Presbyterians for Democracy & Religious Freedom (Nashville) National Chairman

11 Honors and awards List all scholarships, fellowships, honorary degrees, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Newspaper Foundation Traveling Fellowship 1960

Omicron Delta Kappa (Men's Leadership Honorary Society) 1961

Army Commendation Medal 1964

RESPONSES TO PRE-HEARING QUESTIONS FROM THE MAJORITY
BY
ERVIN S. DUGGAN,
NOMINEE TO THE FEDERAL COMMUNICATIONS COMMISSION
FEBRUARY 6, 1990

I. GENERAL

1. WHAT INITIATIVES WOULD YOU UNDERTAKE AS AN FCC COMMISSIONER? WHAT ISSUES ARE OF PARTICULAR INTEREST TO YOU?

A. DEFINING THE PUBLIC-INTEREST STANDARD: Nearly a decade of enthusiastic (if not zealous) deregulation has raised the question whether the traditional 'trusteeship' concept of broadcast responsibility--- also known as the public-interest standard--- exists at all today except as a shadow of its former self. Can those members of the communications media who share space on the broadcast spectrum--- traditionally seen as public property--- be held to a special standard of public responsibility, in an era of no-holds-barred competition from non-spectrum rivals? Can public officials who uphold the trusteeship concept defend it against critics who claim that "the public interest" is merely an abstraction?

I am not a believer in heavy-handed regulation, and I am well aware of the virtues of the free market and of robust competition. But I do believe that government has a legitimate role to play in defense of the public's interest; I believe that it is possible to define and assert that interest; I believe, indeed, that the concept of trusteeship is implicit in the statute authorizing a federal regulatory role in communications. The alternative, in my judgment, is a world of Darwinian struggle in the communications marketplace in which the strong prey upon the weak--- and the public ends up the loser. I would hope, therefore, to offer some leadership, if confirmed, in forthrightly reasserting, once again, the concept of the public interest.

I have no illusions that this will be simple. The courts, the culture and the convictions of my predecessors over the past ten years have narrowed the ambit in which the FCC can assert the public interest through regulatory intervention--- which creates a considerable challenge for a would-be commissioner who believes in the public-service standard. That challenge? To use the 'bully pulpit' to call the leaders of the communications industry to adhere VOLUNTARILY to standards that may no longer be enforceable by regulatory fiat. This I hope to do.

B. A GLOBALLY COMPETITIVE COMMUNICATIONS INDUSTRY: The very phrase 'globally competitive' has become an overworked one over the past few years, and 'competitiveness' has become a buzzword. However tired we may be of the words, however, the necessity they represent is real and urgent. Chairman Sikes of the FCC has responded by establishing, for the first time in history, an Office of International Affairs at the FCC, and by signaling his eagerness to make the FCC a real force on behalf of an internationally competitive U.S. communications sector. To the extent that I am able, I am eager to add impetus to his leadership in this field.

C. A RESTORATION OF GOOD WILL: However minor this issue may seem, I think it deserves mention: some healing of the abraded relationship between the FCC and members of Congress. In my contacts with key members of Congress and Congressional staff members since my nomination, I have been struck by the perception of many that the FCC in recent years has been somewhat heedless of the prerogatives of the Congress as the ultimate policymaking body in our democracy. Without passing judgment on whether the facts justify that perception, let me state that I will make it a priority, if confirmed, to alter the perception--- by making it clear that I understand and accept the primacy of Congress in the making of national policy. I do not consider the elected officials of our national government to be recalcitrant students in need of my tutelage; I consider them the prime and proper shapers of public policy.

2. IN GENERAL, ARE THERE ANY CHANGES THAT YOU WOULD LIKE TO MAKE IN THE POLICIES AND PROCEDURES OF THE FCC?

My impression is that Chairman Sikes has already introduced a number of hopeful, even bracing, changes at the FCC. On my first visit to the Commission after President Bush announced his intention to nominate me, I met with a longtime official of the Commission--- not, incidentally, a member of Chairman Sikes's party--- who paid him this considerable tribute: "Al Sikes has brought glasnost and perestroika to the FCC." My intention is by no means to arrive at the FCC and overturn the furniture that he has begun to arrange; my hope, rather, is to assist a strong and capable chairman in the efforts he has already begun to make the Commission a more vibrant, responsive and efficient agency.

Having said this, however, let me suggest two possible areas in which I may press for some change: I would like to ensure that the bureaucratic response time of the FCC--- the time required to process applications, answer inquiries, complete studies, and generally do its work--- is as short as can be without any degradation of quality. And I would like to erase any impression that the Federal Communications Commission is indifferent to the concerns of parents and other concerned citizens about the effects of broadcast violence and pornography on children and on our culture.

II. MASS MEDIA

3. AS YOU KNOW, RECENTLY THERE HAS BEEN CONSIDERABLE CONCERN ABOUT INDECENCY AND VIOLENCE ON TELEVISION. I AM CONCERNED ABOUT THIS AS WELL. DO YOU BELIEVE THAT WE NEED TO IMPROVE THE QUALITY OF RADIO AND TELEVISION BROADCASTS?

I do. I have been described, in the communications trade press and elsewhere, as a "family values" nominee to the FCC--- a label that I don't resist, if it is properly understood. I have no desire and no inclination to become a censor. I am a former journalist, with a journalist's reverence for the First Amendment. I am well aware, moreover, that the courts have carefully delineated what kinds of expression may be limited as "obscene" or

"indecent." No FCC commissioner--- even one so publicly committed as I am to traditional family values--- has any warrant to become a mass-media Carrie Nation, hacking away at the Bill of Rights.

I do believe, however, that parents, religious leaders, educators, women's organizations, and children's advocates deserve sympathy, not scorn, when they express concern about the degrading effects of broadast violence and near-pornography. If confirmed, therefore, I will use the platform provided by my office to call the broadcasting industry to a renewed sense of responsibility and self-restraint. I will use my gifts as an advocate to encourage humane values and adherence to the highest community standards. And within the guidelines laid down by the courts, I will join my FCC colleagues in using the full statutory powers of the Commission to deal firmly with broadcast material that is clearly indecent or obscene.

4. DO YOU BELIEVE THAT THE FAIRNESS DOCTRINE WAS GOOD POLICY?

I certainly believe that fairness is a proper goal of both good journalism and good public policy. I believe that the two principal aims of the Fairness Doctrine--- to encourage full coverage of publicly important issues, and to guarantee that all sides of such issues are fairly aired--- are worthwhile aims. I am in sympathy, moreover, with members of Congress who fear that in the absence of a codified Fairness Doctrine, those worthwhile goals are in danger of being ignored or trampled upon.

Years ago, I worked as a volunteer for a Democratic Congressional candidate in a Southern state. He was, by every measure, a moderate, principled, centrist Democrat. The news director (and on-the-air commentator) of one important broadcast station in the district, however, lost no opportunity to pillory my candidate--- often several times each day--- as a "pro-Communist, pinko radical." Protests of these lurid denunciations, which paraded as "news," were to no avail; demands for rebuttal time were denied; the offense to the concept of fairness was palpable. On Election Day, my candidate lost by less than two thousand votes out of many thousands cast--- and the negative votes were clustered in the area of the broadcast station whose commentaries were so flagrantly unfair. Did I feel that this broadcaster violated his public trust as the holder of a license to operate in the "public interest, convenience and necessity"? I did, and I still do.

I know that there are powerful arguments against a codified Fairness Doctrine on both constitutional and practical grounds. (Some opponents cite evidence, for example, that the Fairness Doctrine may actually have been counterproductive: that some broadcasters actually shied away from dealing with controversial issues because they feared Fairness Doctrine complaints about their treatment of such issues. Other opponents point out, not implausibly, that "the sky has not fallen" in the recent absence of a Fairness Doctrine.) I know also that efforts to codify and restore the Fairness Doctrine have encountered rough sledding recently. All of which moves me to say that, in the absence of a codified Fairness Doctrine, I think it is important for all of us--- FCC Commissioners included--- to uphold at least a fairness PRINCIPLE as a goal worth striving for in the public interest. And

to add this: If the Congress should successfully enshrine a Fairness Doctrine in law, I will, if confirmed, join my FCC colleagues in enforcing it.

5. WHAT ARE YOUR VIEWS ON THE STRUCTURE OF THE BROADCAST AND MEDIA INDUSTRIES? ARE YOU CONCERNED ABOUT THE INCREASING CONSOLIDATION IN THESE INDUSTRIES?

I am. I am a believer, as I've noted above, in the benefits of robust, free-market competition. But the result of such competition, in my judgment, should not be a situation in which a few giant, predatory operators devour and destroy their smaller rivals.

6. IN GENERAL, WHAT PUBLIC INTEREST OBLIGATIONS SHOULD BE REQUIRED OF BROADCASTERS? IN PARTICULAR, SHOULD BROADCASTERS HAVE ANY OBLIGATION TO SERVE THE INTERESTS OF THE COMMUNITY IN WHICH THEY ARE LICENSED?

As I have said above, I believe that the concept of trusteeship--- the idea that the holder of a broadcast license is the holder of a highly valuable PRIVILEGE granted by the people of the United States--- is not only valid, but implicit in the basic law establishing regulatory oversight over communications. I believe that the proper way to repay the public for that valuable privilege is to demonstrate a high sense of public responsibility and a high degree of self-restraint--- which I believe the great majority of broadcasters do. Reasonable people may disagree about how much official intervention is necessary or appropriate to encourage such a sense of public responsibility, and I am unable to calibrate precisely in advance what my record will be on this question. But in general, I believe it is appropriate to judge a broadcaster's sense of stewardship and public responsibility by examining its performance in such areas as attention to news and public-affairs programming, high-quality children's programming, general efforts to promote worthwhile community causes, and a concern for guarding minority rights and expanding minority opportunity.

7. DO YOU BELIEVE THAT THE COMMISSION'S POLICIES DESIGNED TO ENCOURAGE MINORITY AND FEMALE OWNERSHIP OF BROADCAST STATIONS--- THE COMPARATIVE PREFERENCES, TAX CERTIFICATE AND DISTRESS SALE POLICIES--- ARE GOOD PUBLIC POLICY?

I have not yet studied these programs in sufficient detail to make more than a general comment here. I strongly support the goal of expanded opportunity for minorities, women and other historically disadvantaged groups, and I believe that encouraging greater diversity in the ownership of broadcast licensees is greatly in the public interest. Every specific policy to further these goals, in my judgment, needs to be subjected continually to three searching questions. First, is it working? Second, is it fostering, over time, greater voluntary compliance--- a situation in which the goal of equal opportunity is widely shared and embraced? And third, is this policy operating in a way that avoids invidious and counterproductive consequences?

8. DO YOU BELIEVE THAT THE NEED FOR CHILDREN'S PROGRAMMING IS CURRENTLY BEING MET? WHAT ACTION WOULD YOU PROPOSE THAT THE COMMISSION TAKE CONCERNING

CHILDREN'S PROGRAMMING?

As a citizen and as a parent, I'm concerned about several issues when it comes to children's fare on television: the general fall-off in local and network offerings for children, for example, and the proliferation of commercials and even "program-length" commercials during children's viewing hours. Generally, I'm not persuaded by the argument that, since "Nickelodeon" and other children's services are offered on cable television, networks and local broadcasters need not feel any overwhelming public obligation when it comes to children's programming.

I understand that children's television programming is under review in the Congress. I will be most interested in the findings and proposals that emerge from this review, and would be generally inclined to favor those that encourage improved offerings (and discourage abuses) for the children's audience, which has special needs and vulnerabilities.

9. THE FCC HAS PROPOSED TO RESOLVE SOME SPECTRUM DISPUTES THROUGH A PROCESS OF PRIVATE INTERFERENCE NEGOTIATIONS. DO YOU BELIEVE THAT THIS PROCESS COULD BE USED IN A WAY THAT SATISFIES THE PUBLIC INTERESTS OF THE PARTIES? DO YOU BELIEVE SUCH PRIVATE INTERFERENCE NEGOTIATIONS WOULD CONFLICT WITH THE COMMUNICATIONS ACT STATEMENT THAT LICENSEES DO NOT HAVE A VESTED PROPERTY RIGHT IN THE SPECTRUM?

I find the idea of private spectrum negotiations intriguing, and would be interested in the results of a limited experiment in this direction; conceivably some disputes could be resolved or ameliorated this way. But I would never approve relying on such negotiations in a way that ceded the regulatory responsibilities of the FCC, and I would never knowingly agree to a practice that would erode the Communications Act. I believe, therefore, that any such negotiations, should they occur, must necessarily be based on a clearly-stated understanding that broadcast licensees are stewards and trustees, not owners, of their spectrum positions.

III. COMMON CARRIER

10. DO YOU BELIEVE THAT THE RESTRICTIONS ON THE BELL OPERATING COMPANIES SHOULD BE LIFTED? IF YOU FEEL THAT SOME BUT NOT ALL OF THE RESTRICTIONS SHOULD BE LIFTED, PLEASE IDENTIFY THOSE THAT YOU WOULD ELIMINATE.

On this vexed and explosive question, with its profound implications for altering the competitive landscape of the telecommunications industry, I advocate only the most gradual, careful and considered approach--- and one which places the Congress at the center of the public-policy process. It may be that some day, a lifting of the existing restrictions on the Bell Operating Companies may be advisable in the interest of consumers and of international competitiveness. Any such lifting, however, must in my view be accompanied by carefully-drawn safeguards.

11. AS A GENERAL MATTER, DO YOU BELIEVE THAT COMMON CARRIER REGULATION OF TODAY'S MARKETS SHOULD BE MORE STRICT OR MORE RELAXED?

This question strikes me as a re-formulation of the famous question once asked of the young Abraham Lincoln: "How long should a man's legs be?" Lincoln, after some pondering, replied drily, "Long enough to hold him up, sir, but not an inch longer."

While I cannot state precisely how much more or less regulation might be appropriate in today's marketplace, I can attempt a brief statement of the conviction that will guide me if confirmed: I believe in applying the regulatory hand as lightly as necessary to protect the public interest and to foster competition that is both free and fair. As I have suggested in my response to Question #1 above, however, I am not an ideological deregulator; I believe that the regulatory effort to define and defend the public interest in communications is appropriate and necessary if we hope for our free-market system and public policy to serve citizens and consumers as they should.

12. WHAT AREAS OF COMMON CARRIER REGULATION NEED TO BE IMPROVED?

One fruitful field for inquiry and improvement, in my judgment, is a set of issues raised by the so-called Alternative Operator Services. A frequent complaint is that these bare-bones vendors offer minimal services at maximum rates and with maximum inconvenience. Some customers have complained that instead of an operator, they get recorded announcements; they find that refunds are difficult or impossible to obtain, and generally complain of poor or non-existent service. If the FCC can provide some incentives for improvement in this field, perhaps it should.

13. HOW ACTIVE A ROLE SHOULD THE FCC TAKE IN PROMOTING THE INTERESTS OF U.S. COMPANIES ABROAD?

I would take a dim view of FCC intervention to help a particular U.S. company abroad; the possibilities of transgressing the requirements for impartiality and fairness would seem to me great if that occurred. I do believe, however, that the FCC has a role to play in helping U.S. industries generally to compete successfully in global markets. Chairman Sikes has declared his eagerness for the FCC to join hands with the Special Trade Representative, the Commerce Department and other important agencies to remove impediments to effective competition by U.S. companies. He has created an FCC Office of International Affairs. He has vowed to Congress and to industrial audiences that under his leadership, the FCC will try to minimize problems that have, in the past, hobbled the entry of U.S. communications companies into foreign markets (like regulatory delays in the development of cellular radio). I applaud his efforts, I hope to give them added impetus, and I hope that if I am confirmed, the era of my service on the FCC will be remembered as a time when U.S. communications companies--- already highly competitive in world markets--- became even more successful.

# # # # #

Senator INOUYE. I am pleased to call upon you, Mr. Duggan, for your views, sir.

STATEMENT OF ERVIN S. DUGGAN

Mr. DUGGAN. Thank you, Mr. Chairman. I would like to begin by thanking these distinguished Senators who have been kind enough to speak on my behalf. Words cannot adequately express my thanks, but I hope over the years, I will be able to express it in some way. Some Members of this committee are good friends; others, I have met; others, I have not met. I am grateful to all, however, for the hospitality and generosity you have shown in expediting this nomination by the President and moving the confirmation process along as you have.

With your permission, Mr. Chairman, I would like to briefly introduce my family who are here. An old mentor of mine, President Johnson, used to boast that he had "outmarried" himself. I never fully understood what he meant until I outmarried myself: my wife, Julia; my oldest son, Ned, the family basketball star; our nine year old son—about to be ten—Paul Duggan, who was extremely excited about this nonimation by the President until he learned a few days ago that it does not provide a limousine.

I have had some difficult moments as a father. But I think none was more difficult than explaining to Paul that we will continue to ride in my 1979 Pontiac Catalina, which is missing several hubcaps.

Senator, I have a formal statement.

Many years ago, when I was 24 years old and very new in Washington, I was plucked away from the staff of the Washington Post to become a very junior staff assistant at the White House—and thus began the most remarkable educational experience of my life.

President Johnson treated his staff, even the most junior among us, as an extension of his family. Having been a protege himself as a young man, he was determined now to be the friend and mentor of his own proteges. He dubbed his youngest staff members "the bright young men" (in today's more liberated age, the group would doubtless include many bright young women). Occassionally he would gather us around him as a group, and we formed an eager audience.

I remember one such gathering: at late evening in the Cabinet Room. The President, slumped down in his big chair, pointed a finger at one of us and said, "Whenever people come into my office, I don't just look at the most powerful ones. I study the young men who carry their briefcases, and I try to get to know them. They're the ones who do all the work anyway. And I know that before too many years go by, those satchels will change hands." He paused, then drove home his point: "You young fellas may think you're just carrying somebody else's briefcase today. But some day, the papers in those briefcases are going to be yours."

I didn't believe him for a minute. I was something of a loner; I considered my sojourn at the White House to be an aberration; I had no other ambition than to be a writer, a journalist, an observer in Washington. Today, however, I find myself plucked away again to an unexpected opportunity: one which suggests that President

Johnson was a better prophet than I realized. He was wrong about one thing: I will always carry my own briefcase. But the papers in that briefcase, if you see fit to confirm me, will be those of a Federal Communications Commissioners: one who is determined to read the papers with a careful eye, and to conduct himself in office in a way that honors the idea of public service.

I'm full of gratitude today: to President Johnson, posthumously, for the education he gave those of us who were lucky enough to serve him; to President Bush and his White House staff, who, in choosing this Democrat, have shown a certain audacity; and to the members of this Committee, for your great hospitality, generosity and helpfulness during the period between my selection and this hearing.

You, the representatives of the communications industries who have business before the FCC, and the public are entitled to some sketch not only of my past, but of the future: some idea of the convictions, hopes, beliefs and intentions that will guide me if I am confirmed. Let me list a few of them:

I am a Democrat, but not a partisan. I see little partisan content in most of the issues that come before the FCC, and I intend to shape my decisions on the basis of other considerations than partisan politics.

I accept the primacy of the Congress, whose members are the closest government officials to the people of the United States, as the primary shaper of public policy. I will be sensitive to the powers and prerogatives of the Congress, and will never consider its members a band of recalcitrant students in need of my tutelage. To the extent that members of Congress and this Committee feel that relations between the Congress and the FCC are in need of healing and repair, I hope to be an effective healer and repairer.

I believe that the public interest standard—the idea that the holder of a broadcast license is a steward and trustee of the public—is implicit in the law. Given that fact, I believe that the trusteeship concept, even in an era of significant deregulation, deserves to be upheld and defended.

While not a bitter partisan, I have a Democrat's traditional regard for fairness—fairness, especially, for the weak and the small. And I have what I believe to be a traditional American's skepticism about monopolies and large concentrations of power. I am an enthusiastic believer in the free market and in robust competition, but I oppose any idea that in the name of unfettered competition, the strong and powerful should be allowed to prey upon the small.

On the issue of decency and standards in broadcasting, I have strong feelings as a citizen and as a parent. I have no desire to be a censor; I have a journalist's regard for the First Amendment, and I am aware that the courts have carefully delineated what expressions can legally be called obscene or indecent. On this issue, then, I would hope to be most effective by calling broadcasters voluntarily to a high sense of responsibility and restraint. But if confirmed, I will not hesitate to join my colleagues on the FCC in using the statutory powers of the Commission to deal with broadcasts that are clearly indecent or obscene.

I hope it does not sound evasive for me to say that I consider myself neither a regulator or a deregulator. I simply have no fixed, ideological commitment to either polar extreme. I believe in applying the regulatory hand as lightly as possible in order to ensure a fair, competitive marketplace and to guard the interests of the consuming public. But I do not believe in removing that hand altogether.

I have no illusions about the difficulties presented by the emergence of new technologies, or the dilemmas posed by the shifting competitive landscape in the telephone industry. I am as excited by the possibilities presented by these issues, however, as I am sobered by their difficulty. While I cannot predict what positions I will settle upon or how I shall vote, I can pledge that I will give these issues the most searching and rigorous and serious study, and the most scrupulous effort to be fair.

If I were to sum up in a few words the goal that I have set for my service if confirmed, it would be to say this: I am eager to join you in the Congress; Chairman Sikes, his fellow commissioners, and the highly capable staff of the FCC is helping to foster a U.S. communications sector that is free, healthy, competitive and responsible.

The temptation for all of us, in the grinding routine of official Washington, is to be preoccupied with the mundane: with the seeming tedium of highly technical issues. I hope, if you confirm me and I face that temptation at the FCC, to refresh myself by recalling another mentor of mine at the White House years ago: another, better, journalist and writer who found himself plucked into government service. Douglass Cater—then Special Assistant to President Johnson, now president of Washington College in Maryland—was the chief architect of public radio and public television; it was my privilege to be "present at the creation" when he was working to shape these institutions. During that process, at a moment of great weariness and difficulty, Doug Cater said to a group of us, "We've got to remember this: we're not just hammering out legislation here. We're building what could be the electronic equivalent of the old Greek marketplace, where great debates took place and great ideas were born."

What we are doing in America today—on Capitol Hill, at the White House, and in agencies like the FCC—is not mundane, not routine, not mere bureaucratic shuffling. We are, for better or for worse, seeking to build "a more perfect Union." And the stakes are not just for us. In Eastern Europe, in the Soviet Union, and in other places, people hungering for freedom are watching us: watching us not just to learn what freedom is, but also to see what we do with our freedom. We are, for better or for worse, an example to them and to the world: it matters not just to us, but to them, whether we use our freedom nobly—or allow it to decay into mere license, greed and demagoguery.

"Of those to whom much is given," it is written, "much shall be required." If you confirm me, it is my hope to serve you, my President, and my fellow citizens in a way that suggests some measure of repayment for the much that has been given me; to serve, finally, in a way that displays not only the competence the job requires, but the vision it deserves.

I would like to say, though, that no moment could be more exciting for a prospective commissioner to the Federal Communications Commission. There are exciting new technologies on the horizon. The competitive tang is in the air in the marketplace. The issues are significant, difficult and challenging. I look forward, if confirmed, to working with you on all of these issues—to ensure a fair, healthy, competitive, responsible communications industry.

Senator INOUYE. Thank you very much. I am glad that you gave us the opportunity to meet your family. All too often we forget that the essence of our country is the family.

We have two major areas of concern. Will we be able to cope with the technological revolution that is now going on in the communications industry? Many of us feel that we have not been able to keep up with it. As a result, we seem to see ourselves falling behind our competitors.

Second, as the Chairman has indicated on several occasions, a matter of grave concern to us has been the deteriorating relationship which seems to have existed between the FCC and the Congress. I hope that with your involvement this can improve.

I have just one question, a question asked most often by people in the United States. As chairman of this subcommittee I receive, I think, a few more bags of communications letters than most Members of the Congress. Most of the letters are concerned about the pornography and indency that many seem to view or hear on television or radio these days.

Is there any way we can clean up the act, or do you propose to do anything about it?

Mr. DUGGAN. Well, Senator. I think there are certainly ways that we can try. If you read the trade press, you know that I have been identified as the so-called "family values" nominee to the Federal Communications Commission. I do not resist that label or shrink from it. I think the traditional values of family and decency that have been so important in this country over centuries are still valid, and more desperately and urgently needed than ever before. I would hope to be a spokesman for those values.

I would like, however, to allay any fears of civil libertarians that I might be coming to the Federal Communications Commission to trash or destroy the First Amendment of the Constitution. As was noted earlier here today, part of my history is as a journalist. I came to town as a reporter: a fledgling reporter for *The Washington Post*. My reverence for the First Amendment is a matter of bone and blood and fiber with me, so I do not think that is a danger.

I will be, however, an advocate within the limits that are set down of respect for the First Amendment and the delineations that are laid down by the courts and the statutes. I still intend to be an advocate for those decent family values.

One thing that I think we often concentrate upon perhaps too much in this debate is the use of the coercive powers of the FCC. Now, certainly those powers exist. Chairman Sikes and his colleagues in recent months, as you know, have moved vigorously against these indecent broadcasts.

I would like to move the debate away from concentrating merely upon the use of the coercive powers of the FCC. I think we ought to

be using the bully pulpit of the FCC. We who serve, or will serve, on that commission get invited to speak to a great many industry audiences. We have a platform. We have what Theodore Roosevelt called a bully pulpit to use. I intend to use that—to call the broadcasting industry to a high and humane and solemn view of their responsibilities. I think you can rest assured that I will be an advocate for those values of decency.

Senator INOUYE. I think the people of the United States will receive these words of yours with much gratitude, sir.

Chairman Hollings.

The CHAIRMAN. Mr. Duggan, you hit the bullseye when you spoke in terms of using the FCC as a bully pulpit, as well as an administrator of policy. It has a good effect not just to talk to audiences but to bring in the owners of broadcasting facilities from time to time. We did it in this committee several times and it had a positive effect. The network officials would come in and demonstrate how they were trying to clean up the various submitted programming, the deletion of the four-letter words, the violence, the blood and everything else of that kind with that fever of the so-called deregulation: deregulate, deregulate, get rid of the government, the government is the enemy. Nonsense. I have heard it around here for ten years now.

I would only use this opportunity to remind you that this particular industry, namely the broadcast industry came to Congress and asked to be regulated. I go back to when they were not regulated. I guess it was David Sarnoff who kicked off the modern day communications in radio and then later broadcast the sinking of the *Titanic* back in 1912. Wannamakers in New York and Wannamakers in Philadelphia set up a short wave radio just for business communications, and it happened that Sarnoff was on the roof there in the Wannamakers in Philadelphia at the sinking and was directing rescue efforts and otherwise. Families were crowding into Wannamakers' store to find out about survivors and what was happening after that radio became of age and by 1926 there were so many stations and so much interference that the broadcasters begged for regulation.

Let them be deregulated. I have always thought to let them just all come in. Give them a license. You know, if we get these operators up here from my own backyard who say we developed the spectrum. What spectrum? I would like to give them all the spectrum and see what they did develop? They would be back to jamming. You would hear nothing; you would see nothing.

As a result, the industry came and said to Herbert Hoover, who was then the Secretary of Commerce, for heaven's sake, bring order out of chaos and regulate us. They got the Communications Act of 1934, and we have lived with that until the last nine or ten years now when everybody got deregulation fever, which, as we know, resulted in the elimination of the Fairness Doctrine.

That is not a partisan thing. We have had over 17 former FCC commissioners from Newt Minow on one side to Dean Burch on the other come in and show that we had not even had a case over the 40-year period where a station lost its license because of the Fairness Doctrine and in the last 12 years how it was working so well.

The broadcasters insisted that that was an inhibition on the freedom of speech caused by the Fairness Doctrine. It is the public's freedom of speech we are protecting. You use the expression. "as a public trustee." That is what we are. We are not up here to look out only for the station owner. The spectrum and air waves up there belong to the public. It is their freedom of speech, and once restricted to one particular choke point, bottleneck or access you might call it through that one license, then it is the public's freedom of speech that we are up here to protect.

We have to make that clear. We try to set these policies and develop them. We want broadcasters dedicated to the public interest and not making decisions on the basis of shortsighted and short term business interests.

I noted a couple of years ago a station sold in my own backyard for $65 million. I know its facilities, talent and everything else, could be duplicated for $5 million of that $65 million. $60 million really was the valve of the spectrum, the license. If we were to delicense that group and license another group, it would have been worth $60 million to get into that particular market. There was a guaranteed market and totally protected, a monopolistic kind of authority rather than just a casual license.

On the antitrafficking provision, people have been buying and selling stations in one year's time. You go in and fire the news staff; you increase the commercial numbers from three to six or seven at a break. You get what the legitimate broadcasters call clutters. The competition then says we are going to have to have clutter in order to meet the competition. The value of the broadcast itself then diminishes in the public's mind, and they just go buy video tapes or go to the movies. Broadcasters are losing their audience.

So you come at the tail end of this deregulator era to a Commission that would not follow many of the policies that we have promulgated here in the Federal Government. They thought they were politically responsible only to the White House with their so-called deregulate, deregulate, and went pall mall down the road. As a result for example where we had at one time stopped pornography on the airwaves and now we have it all over again.

You had just below you on King Street a station that lost its license because of the program profanity in its broadcasts, right there in our own backyard. We have to get back to the public trust and the public service and protect the public's air waves.

Internationally, as a foreigner I cannot own a broadcast station; but as a foreigner I can buy the network tomorrow. I am waiting for them to do it. They can just buy out the network and everything else. All three networks can be foreign owned with the money floating around in all these mergers and everything else. We have to correct that situation.

Foreigners are allowed to come in and produce, but we are not allowed to go into other countries and do the same thing. A good choke point for that particular problem in this international economy, moving from the Cold War to the trade war, your Federal Communications Commission is going to have to look into this whole issue of international competitiveness.

I wish you well. I am confident that you will be objective and look at the entire panorama of problems and realize that we are all trying to go back and start working together to get a good public policy for both telecommunications and mass media.

Mr. DUGGAN. Senator, if I could just respond quickly to two points. You have given me quite a full plate there, but I would like to pick up and respond on just two quick points.

I hope that you and your colleagues on the committee and all across Capitol Hill will find that, if confirmed, I am not driven by some rigid ideology about regulation or deregulation. I believe in a light regulatory hand; I do believe it is undeniable that some of the procompetitive policies have been beneficial. But I do not believe in removing totally the regulatory hand.

I believe there is an appropriate place for public regulation, although there is always a question as to how sensitively we should apply that regulatory hand. You will not find me driven by ideology.

Now I move to the second point. I am very much aware of the abraded feelings of many Members of this committee and Members of Congress about relationships with the FCC. I would like to reassure you on that point.

I cut my political teeth in Washington at the side of a president who grew up in the Congress. He could not be accused of being a weak president, or of being neglectful of the prerogatives of the presidency. But President Johnson constantly said, "The President proposes, but Congress disposes!" He was reverential of the prerogatives of the Congress.

You will not find me, Senator, treating the Members of the Senate and the House of Representatives like wayward students who need my instruction. I hope to be responsive to your concerns—accessible and reasonable—and I hope to be a part of the healing and repair of those abraded relations. I think Chairman Sikes is off to a good start in being responsive to the concerns of Congress, and I hope to be a part of the solution.

The CHAIRMAN. Thank you, Mr. Chairman.

Senator INOUYE. Thank you, sir.

Senator Pressler.

Senator PRESSLER. Thank you very much. I welcome you here.

Let me say that I have been very concerned about communications in rural and small town America. That is the constituency I represent.

Also, I have found over the years that rural and small town America have something in common with our inner cities in that many of the big companies want to serve the affluent suburbs and areas.

I would like to ask you your views on several issues. First of all, the FCC is considering whether to allocate specific spectrum for the use of wireless cable. Wireless cable is very important to get TV to some of our ranchers and farmers. I am pleased with the attention paid by the current FCC to enhancing cable competition. Do you share the view that the FCC should promote greater competition by competing technologies to cable, and what is your view of this reaching some of the less populated areas of our country?

Mr. DUGGAN. Senator, I should tell you, since you came in late, that I grew up in a small town—probably smaller than some of the towns in your state. There were only about 3,000 people in Manning, South Carolina, when I grew up there. They have since expanded it to 5,000—by expanding the city limits, not by population growth.

I am a believer that small is beautiful. I understand, I think, from real life and real experience, the plight of small and isolated communities, their special needs and vulnerabilities. So I think generally I can say that I will be responsive and sympathetic to the concern you express.

I also will be generally sympathetic to measures encouraged by the FCC to stimulate competition. I cannot comment on the specific initiatives that you have mentioned because I simply have not studied those in any great detail. But I think you will find me generally eager to encourage competition and extend the benefits of communications technology to small communities that have special problems.

Senator PRESSLER. What is your view of such regulatory schemes as the price caps in telephones and geographic rate averaging?

Mr. DUGGAN. Again, sir, I am not yet well studied on the technicalities of those issues. My understanding is that the states are already well along in their experiments with price caps. More than 30 states have taken up the question. Some two dozen have already enacted some form of price cap. I am open to rational persuasion on this issue.

With regard to efforts by the FCC to experiment and to have a policy debate about different ways of regulating telephone rates, I do not come to that with an ideology, but I would like an opportunity to study those more in detail before giving you a hard and fast answer.

Senator PRESSLER. Good. Well, would you submit for the record some comments on the areas I have mentioned? Obviously you have studied and will study them, but I am concerned about the views of new commissioners on price caps, geographic rate averaging, and wireless cable.

Mr. DUGGAN. Yes, sir. If you will make sure that I get those questions, I can respond to you within 24 hours.

Senator PRESSLER. Mr. Chairman, I will submit those for the record.

I have no further questions.

Senator INOUYE. Senator Burns.

Senator BURNS. Thank you, Mr. Chairman.

Mr. Duggan, welcome this morning. I am sorry I am running a little late. It seems that ever since the first of the year we have a custom of running on crow time.

I would like to take this opportunity to welcome you Mr. Duggan. I look forward to working closely with you in your new position as Commissioner of the Federal Communications Commission.

As you well know, the FCC is an extremely important government agency, especially considering the fact that we are entering the "information age." In fact, today is the "information age," and telecommunications comprises its chief transportation system. In-

visible highways of fiber optic cable and radio waves each second carry trillions of bits of information vital to the smooth functioning of our economy and society. Telecommunications affords individuals expanded access to information. In fundamental ways, it thus offers the individual greater freedom, and more social and economic power. By capitalizing on these electronic resources more effectively, America has the opportunity to become more competitive in the world economy while, at the same time, enriching the overall quality of our national life.

Again, welcome Mr. Duggan. I look forward to your statement and wish you well as you take on this important position at the FCC.

I have quite a list of questions. We invite you to come by the office to discuss them.

I want to congratulate the President on choosing you for this position. You are coming into the FCC in an era which I think is the information age, with the ability to move information and this type of thing. So I think it is quite exciting, and I congratulate you for wanting to take up this cause.

I appreciate your traditional values while also keeping in mind that we have a First Amendment and all of those good things.

Thank you, Mr. Chairman, and thank you for holding this hearing. I appreciate that very much.

Thank you for coming.

Mr. DUGGAN. Thank you, Senator.

Senator INOUYE. The record will show that this committee has received the appropriate and necessary papers and disclosure statements, and they have been reviewed.

In keeping with the spirit of your nomination as a family nominee, I would like to call up your wife and your two sons before we move the question.

The CHAIRMAN. Ervin, you tell Paul that I had a limousine before I came up here as governor, and now that I am up here I cannot even find a parking place.

Senator INOUYE. I wanted to do this to indicate that we are pleased to have you with us, and if there is no objection in the subcommittee, the subcommittee will report this nomination to the full committee and request that it be expeditiously handled. Without objection, so ordered.

Thank you very much.

Mr. DUGGAN. Thank you, sir.

[Whereupon, at 9:40 a.m. the hearing was adjourned.]

[The following information was subsequently received for the record:]

POSTHEARING QUESTIONS OF SENATOR PRESSLER AND THE ANSWERS

Question. Do you support action by the FCC to enhance competition through alternative technologies to cable? Do you support measures to promote the delivery of wireless cable to rural America as one such competitive alternative?

Answer. I share the concern, Senator, of many in the Congress and among the public that in most cable communities, cable television enjoys what amounts to a monopoly in providing multichannel service. We know from our recent experience with long-distance telephone service, where competition has been introduced into the marketplace in recent years, that competition has real, tangible benefits: lower prices, improved service, and a brisker pace of technological innovation. So general-

ly, I'm favorable to anything the FCC can do to encourage competition in the marketplace for multichannel video services.

Arriving at a situation in which such genuine competition exists in the real world, of course, is going to take time. And during the transition, it may be that some extrinsic regulation of cable television may be necessary to guard the interests of consumers. I'm quite interested, therefore, in what I've heard of Senator Danforth's proposals in this field—although I need to study them more before I come to any settled conclusions. As I go forward with that study, I will be interested in the FCC's cable Notice of Inquiry and will study the record carefully in an effort to make a judgment about how much interim regulation, if any, may be necessary.

Now: wireless cable. As I said in our exchange this morning, I myself was raised in a small town; the county seat of Clarendon County, South Carolina—an agricultural area where many people live isolated, economically precarious lives. I feel great sympathy, therefore, for your concern about the needs of rural consumers. They, too, need the benefits of an information age. And because they are more isolated than most of us, they may need, even more than city dwellers, the abundance of information and entertainment that television can provide. The FCC, I'm told, is opening proceedings in quest of ways that MMDS—Multichannel Multipoint Distribution Service—might become an effective source of competition with cable. I will be following this inquiry with great interest. I believe the FCC can be an effective force in helping encourage such alternatives, and I'd like to help that process along.

Question. Do you support the new price cap regulation schemes for the regional Bell operating companies?

Answer. I trust you understand, Senator, that as a newcomer to the Commission, I need to immerse myself far more deeply in this subject before coming to a settled position. Generally, however, I support the Commission's ongoing efforts to craft a price-cap regulatory system for local exchange carriers. This approach to regulation—regulation by incentive—promises at least two kinds of benefits, it seems to me: Increased competition among local exchange carriers, and significant benefits for consumers. I understand, however, that before price cap schemes can be implemented, there are some real technical hurdles that must be overcome. If confirmed, my plan is to educate myself more deeply on this issue, to work closely with Chairman Sikes and my colleagues and the staff—as well as with you and other interested members of Congress.

Question. Do you support a continuing commitment by the FCC to safeguarding the geographic rate-averaging provisions that ensure fair and reasonable rates for rural America?

Answer. Yes, I do. I don't believe, Senator, that to live in a rural area or a small town should penalize our citizens by saddling them with higher long-distance rates. As I understand it, geographic averaging of long distance rates has proven to be an effective way of helping rural consumers. It ensures that rural customers share in the benefits of the rate reductions that result from increased long-distance competition in more densely populated areas. I'm sure you can understand my reluctance, Senator, to take hard-and-fast positions on too many issues before I've been confirmed and sworn in. But on this issue, you and the FCC seem to be on the side of the angels, and I can see no reason to change a policy that has helped rural people who deserve our concern.

Posthearing Question of Senator Gorton and the Answer

Question. The recent failure of the AT&T network has demonstrated vividly our country's reliance on a functional telecommunications system. Is there a role for the FCC to help assure that this does not happen again?

Answer. The event you describe, Senator, does indeed underscore how dependent we are, in an information age, on dependable, reliable communications systems. Given that dependence, the failure of any network demonstrates, in my judgment, the importance of fostering competition.

Effective competition, it seems to me, is not desirable simply in the abstract; as a practical matter, competition in the long-distance field means that alternative carriers exist which can relieve the problems caused by occasional network failures.

As an FCC Commissioner, I intend to encourage the kind of competition that offers alternatives to consumers—in telecommunications and in other communications sectors. And if it is feasible to encourage some sort of mutual aid arrangement among carriers to help relieve the problems caused by such incidents, I would be in favor of such initiatives.

○